IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSSEE
AT WINCHESTER

DENNIS EDDINS	)	
Plaintiff	)	
	)	No. 4:00-cv-41
v.	)	
	)	
PAUL G. SUMMERS, *et al.*,	)	
Defendants	)	
and		
	)	
DENNIS EDDINS	)	
Plaintiff	)	
	)	No. 4:00-cv-49
v.	)	
	)	
PAUL G. SUMMERS, *et al.*,	)	
Defendants	)	

ORDER
(filed November 7, 2000)

Cases No. 4:00-cv-041 and No. 4:00-cv-049 are hereby CONSOLIDATED. The defendants' motions to dismiss the suits against him [Court File #6 (Case No. 41); Court File #5 (Case No. 49) are likewise CONSOLIDATED, and the motion is GRANTED.

The court ORDERS plaintiff to SHOW CAUSE within twenty days why this action should not be dismissed against the remaining defendants for failure to serve copies of the summons

and complaint upon the other named defendants pursuant to Fed. R. Civ. P. (4)(m).

ENTER:

/s/ James H. Jarvis

JAMES H. JARVIS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSSEE
AT WINCHESTER

DENNIS EDDINS	)	
Plaintiff	)	
	)	No. 4:00-cv-41
v.	)	
	)	
PAUL G. SUMMERS, *et al.*,	)	
Defendants	)	
and		
	)	
DENNIS EDDINS	)	
Plaintiff	)	
	)	No. 4:00-cv-49
v.	)	
	)	
PAUL G. SUMMERS, *et al.*,	)	
Defendants	)	

MEMORANDUM OPINION
(filed November 7, 2000)

This is a *pro se* civil rights action ostensibly brought pursuant to 42 U.S.C. § 1893. Plaintiff has twice filed his complaint, making the same allegations against the same defendants. For convenience, the two actions will be consolidated. Plaintiff sues defendants the state of Tennessee, Paul G. Summers, Attorney General of Tennessee, W. Michael Summers, District Attorney General of the Seventeenth Judicial District of Tennessee, Brooke Grubb, Assistant District Attorney

General of the Seventeenth Judicial District of Tennessee, John H. Dickey, of the State Public Defender's office, Charles Lee, Lincoln County Circuit Court Judge, and the Tennessee Court of the Judiciary for allegedly violating his civil rights during state criminal proceedings against the plaintiff for check-kiting. The plaintiff also claims that the Tennessee Board of Professional Responsibility failed to properly investigate his claims of attorney misconduct and ethical violations. Only defendant Summers has been properly served with summons and complaint in conformity with Fed. R. Civ. P. 4. Defendant Summers now moves to dismiss under Fed. R. Civ. P. 12(b)(6) [Court file #6 (case no. 41); court file #5 (case no. 49)]. The plaintiff has failed to respond to the pending motion in a timely manner and is therefore deemed to have waived any response. Rule 7.2, Local Rules for the United States District Court, Eastern District of Tennessee. For the reasons that follow, the defendant's motion is granted.

First, the plaintiff's claim for money damages against the State Attorney General is barred by the Eleventh Amendment. Mr. Summers alleged actions all relate to acts performed entirely within the ambit of his official duties. Under those circumstances any judgment against him would in effect be a judgment against the State of Tennessee and is barred under the Eleventh Amendment. See *Kurz v. Michigan,* 548 D.2d 172, 174-175 (6th Cir. 1977). Second, prosecutors are entitled to absolute immunity from civil suits under 42 U.S.C. § 1983 when the suit accuses the prosecutor of a civil rights violation occuring within the course and scope of the prosecutor's official capacity. *Imbler v. Pachtman,* 424 U.S. 409, 420-421, 96 S. Ct. 984 (1976). Third, lower federal courts may not involve themselves in direct review of state court decisions. Because the plaintiff asks the court to involve itself in a complaint involving state criminal law, and ultimately the legitimacy of unappealed state court decisions, this court must decline to exercise jurisdiction. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 476, 103

S. Ct. 1303 (1983).

Accordingly, cases No. 4:00-cv-0041 and No. 4:00-cv-0049 will be CONSOLIDATED. The defendant's motions to dismiss the suits against him [Court file #6 (case no. 41); court file #5 (case no. 49)] are likewise consolidated, and the motion is GRANTED.

The plaintiff is directed to SHOW CASE within twenty days why this action should not be dismissed against the remaining defendants for failure to serve copies of the summons and complaint upon the other named defendants pursuant to Fed. R. Civ. P. 4(m).

/s/ James H. Jarvis

JAMES H. JARVIS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSSEE
AT WINCHESTER

DENNIS EDDINS	)	
Plaintiff	)	
	)	No. 4:00-cv-41
v.	)	
	)	
PAUL G. SUMMERS, *et al.*,	)	
Defendants	)	
and		
	)	
DENNIS EDDINS	)	
Plaintiff	)	
	)	No. 4:00-cv-49
v.	)	
	)	
PAUL G. SUMMERS, *et al.*,	)	
Defendants	)	

ORDER
(filed December 18, 2000)

Plaintiff having failed to comply with this court's order of November 7, 2000, and show good cause for his failure to serve the remaining defendants with copies of the summons and complaints, these actions are hereby DISMISSED with respect to the remaining defendants for failure to comply with Rule 4(m), Federal Rules of Civil Procedure. Defendants' motion to strike

notice of appeal [Court File #13] is hereby GRANTED.

ENTER:

/s/ James H. Jarvis

JAMES H. JARVIS
UNITED STATES DISTRICT JUDGE